U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: SEP 18 2006

WAC 04 024 52519

IN RE: Petitioner:
Beneficiary: [redacted]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Marie Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the arts. The petitioner seeks employment with the Church of Scientology International. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner does not qualify for classification as an alien of exceptional ability, and that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

We note that the Form I-140 petition identified the Church of Scientology International as the petitioner, but because the alien beneficiary signed the petition form, the alien, rather than the church, must be considered to be the petitioner. Relying on the erroneous designation, the director initially issued the denial notice to the Church of Scientology International, not to the alien beneficiary's attention, on February 14, 2006. The church attempted to file an appeal at that time; the AAO rejected the appeal as improperly filed because the church had no standing to file it. The church's attempted appeal contained no substantive argument or evidence. Rather, the church indicated that a brief would be forthcoming within 30 days. No such brief was submitted. Instead, the church repeatedly requested additional extensions in 30-day increments.

In its rejection notice, the AAO advised:

> [T]he petitioner must, in advance, demonstrate that good cause exists for a specified extension of time. The filing of an appeal does not secure for the petitioner an open-ended or indefinite period in which to supplement the record at will, and a petitioner cannot indefinitely suspend the adjudication of an appeal by repeatedly requesting small increments of additional time or by requesting an extension for an unspecified amount of time.

Upon instructions from the AAO, the director reissued the decision on June 5, 2006, properly addressing the decision to the alien (the *de facto* petitioner).

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B Notice of Appeal, filed July 6, 2006, the petitioner indicated that a brief would be forthcoming within thirty days. On August 3, 2006, the petitioner requested a 30-day extension, stating:

> A FOIA request has been filed on my behalf to determine if there is anything that the government has added to the record [of] proceedings which is extraneous or should not be there. We need the response to that FOIA request prior to preparing the brief in this proceeding. It is therefore requested that you grant an additional period of 30 days for our appeal brief to be

submitted, until September 4, 2006, pending the provision of the information requested through FOIA on my behalf.

On September 1, 2006, the petitioner submitted another, virtually identical request for an extension, this time until October 4, 2006.

8 C.F.R. § 103.3(a)(2)(vii) requires good cause for an extension to supplement an appeal. The petitioner's request for documents under the Freedom of Information Act is a separate procedure from the present appeal, and the AAO is not required to hold the appeal in abeyance while that request is pending. A FOIA request based on the suspicion that the government has added unspecified materials that "should not be there" is not good cause for an extension, and the request is hereby denied.

We note that the director's decision was not based on the presence of specific derogatory evidence in the record, but rather on the absence of sufficient evidence of eligibility. Therefore, the allegation that "the government" added unidentified evidence to the record is irrelevant to the stated grounds for denial.

Careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision. Therefore, the AAO shall render its decision based on the record as it now stands.

The statement on the appeal form reads, in its entirety: "The decision is unsupported by statute, regulation and is factually erroneous. There is nothing in the statutes or regulations which prevent the beneficiary from seeking this immigration benefit." These are general statements that make no specific allegation of error. The bare assertion that the director somehow erred in rendering the decision is not sufficient basis for a substantive appeal.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

We note that this decision is without prejudice to the outcome of any other petition, in a different classification, filed on the alien's behalf.

ORDER: The appeal is dismissed.